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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,887	09/12/2002	Leslie Lawrence Howson	4418-2	4992

7590 08/28/2003

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New York, NY 10016-0601

EXAMINER

BRINSON, PATRICK F

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 08/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/088,887

Applicant(s)

HOWSON, LESLIE LAWRENCE

Examiner

Patrick F. Brinson

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 and 15 is/are allowed.
- 6) ☒ Claim(s) 1-11 and 16 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-8, 11 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by **Castillo et al.**

The patent to **Castillo et al.** discloses a circular conduit, fig. 6A, having an inlet end portion and an outlet end portion, with the outlet end portion being mountable on a drainage pipe so that the conduit and drainage pipe are in fluid communication with each other, and a removable cover (40) member is mounted on the inlet end portion to close the conduit when not in use so that the ingress of material into the drainage pipe is inhibited, as recited in claim 1. The inlet portion is of an enlarged diameter. The conduit extends a distance from the drainage pipe to provide a reference level arrangement of a thickness of a screed layer to be formed on a substrate, as recited in claim 2. Fig. 4 and col. 4 discloses that the removable closure is connected to the inlet end portion by a zone of weakness, perforation (42) to facilitate a separation of the closure from the inlet end portion., as recited in claim 6. The end has a grate that

includes a plurality of openings to permit drainage of excess water collected about the inlet end portion, as recited in claims 7 and 8.

3. Claims 1 and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 3620132 A1 to **Dallmer**.

The **Dallmer** reference discloses a conduit (11, 12) having an inlet end and an outlet end, the outlet end being mountable on a drainage pipe (1) so that the conduit and drainage pipe are in fluid communication with each other, and a removable closure (30) is mounted on the inlet end to close the conduit when not in use to prevent ingress of material into the drainage pipe. The device includes a grate member (26) that is received in the inlet portion once the closure has been removed. The grate member is an assembly of a grate frame (21) and a grate element (26). The grate frame defines an inwardly extending lip (25) on which the grate element (26) is supported. The grate element bears against the lip of the grate frame.

***Allowable Subject Matter***

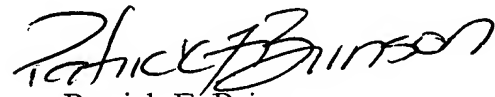
4. Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 14 and 15 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (703) 308-0111. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Michael Y. Mar** can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.



Patrick F. Brinson  
Primary Examiner  
Art Unit 3752

P. F. Brinson  
25 August 2003